ZFW
AF

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicant:		§		
	Kelan C. Silvester	§	Art Unit:	2136
		§		
Serial No.:	09/974,923	§	Examiner:	Carl G. Colin
		§		
Filed:	October 10, 2001	§	Docket:	ITL.0667US
		§		P12985
For:	Using a Communication	§		
	Protocol to Provide	§	Assignee:	Intel Corporation
	Security Services	§		

Mail Stop **Appeal Brief - Patents**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Sir:

This responds to the new explanation provided in the Examiner's Answer. It appears that the Examiner agrees that the cited art does not show what Applicant claims the art does not show. Thus, it appears that the dispute is one solely about what the claims mean.

The Examiner suggests that the Appellant is arguing a construction, which requires a complete lack of communication and disabling, in response to a failure to communicate. It is respectfully submitted that the Examiner is thereby mischaracterizing the nature of the dispute.

The dispute on claim construction is as follows: Does the claim require a failure to communicate or is it sufficiently broad to cover an incorrect communication?

The Examiner contends that a communication that includes an authentication communication and a failure to provide the proper authentication code, is a failure to communicate. The Appellant contends that this is a communication, but merely a communication

Date of Deposit: June 16, 2006
I hereby certify under 37 CFR 1.8(a) that this correspondence is being deposited with the United States Postal Service as **first class mail** with sufficient postage on the date indicated above and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Cynthia L. Hayden

Cynthia L. Hayden

of incorrect information. As a result, there is no failure to communicate, there is merely a failure to provide correct information.

The Answer on page 6 cites various materials in the specification in support of the Examiner's construction. The material at page 4, lines 2-9 is not referring to the feature where there is a failure to communicate. Clearly, this is an example where there is a communication. It addresses additional features set forth in dependent claim 10. This additional feature includes preventing booting when the user is not authenticated. But that does not mean that claim 1 covers this feature. Claim 1 requires disabling a wireless device that fails to communicate with a base station. Claim 10 covers the situation that might arise prior to disabling or subsequent thereto, wherein communication is now enabled but booting is prevented because of a lack of proper authentication. An example sequence is as follows: 1) failure to authenticate; 2) boot prevented (claim 10); 3) proper authentication; 4) boot allowed; 5) wireless device is removed from proximity to base station; and 6) wireless device disabled (claim 1).

Claim 1 covers the failure to communicate and has nothing to do with the failure to properly authenticate. In effect, the Examiner is attempting to unduly broaden the claim by simply reading into the claim every single thing that is put in the specification. There are embodiments of the invention that involve communications and embodiments that involve not communicating. There is no reason to read the material on page 4, lines 2-9, into the embodiment where there is communication. In short, in the illustrated embodiment, the Examiner is attempting to read into claim 1 the embodiment of Figure 2, whereas claim 1 would more properly cover the embodiment of Figure 3 where there is no communication. Nowhere does the Appellant ever say in the application that the failure to properly authenticate would amount to a failure of communication. Looked at differently, a device which is still communicating with the base station could still have security protections, such as those set forth in dependent claim 10, which prevents a device from booting if a signal is not authenticated by the base station. The material at page 5, lines 3-16 is, again, clearly directed to Figure 2, not Figure 3, which is the one that independent claim 1 is directed to.

The embodiment which is claimed in claim 1 is the one described at page 4, lines 20-22. Thus, in some embodiments of the present invention set forth in the specification, not only must there be some communication between the device and the base station, but there must be authentication as well. But, claim 1 does not suggest that the failure to provide any authentication

data in the correct format would be a failure to communicate. Under any normal usage, the failure to communicate is the failure to receive a signal because the device is outside the range of the base station or there is no base station.

The failure to authenticate may be a failure to communicate because no communication is received. If a communication is received, it would not constitute a failure to communicate, it would constitute a failure to authenticate with communication of incorrect data. The best example of this is in the middle of page 6 of the Answer where the Examiner states that "Cromer discloses in response to failure of communicating the correct password that matches an authorized area ... ." The suggestion that a communication is a failure to communicate because it communicates incorrect data is illogical and inconsistent. There is or is not a communication. Plainly, in the Examiner's example from Cromer there is a communication, it just involves incorrect data.

With respect to claim 10, the Examiner, again, suggests that there are limitations being argued that are not in the claim. The limitation that is argued is preventing the device from booting if the signal is not authenticated. The references do not prevent booting if the signal is not authenticated. The Examiner is attempting to read the claim so that a booted device that fails to authenticate reads on the claim. The requirement of the claim that the device be prevented from booting "if the signal is not authenticated by the base station" is thereby read out of the claim. In other words, there is no preventing of booting in any of the cited references because of a failure to authenticate.

In addition, the Examiner ignores the assertion of Section 103(c). In view of the assertion of 103(c) in the appeal brief, all of the 103 rejections are overcome.

Respectfully submitted,

Date: June 16, 2006

Timothy N. Trop, Reg. No. 28,994
TROP, PRUNER & HU, P.C.
1616 South Voss Road, Suite 750
Houston, TX 77057-2631
713/468-8880 [Phone]
713/468-8883 [Fax]

Attorneys for Intel Corporation